

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2011-65

PUBLIC REPRESENTATIVE COMMENTS CONCERNING GLOBAL RESELLER
EXPEDITED PACKAGE CONTRACT

I. Background

On June 14, 2011, the Postal Service requested a renewal of MC2010-21 and CP2010-36.¹ The original contract, approved by the Commission in Order No. 445, expires June 30, 2011.² The Commission noticed the request and appointed the undersigned Public Representative in Order No. 746.³ Pursuant to Order No. 746, the Public Representative respectfully submits the following comments.

II. Statutory Issues

The notice by the Postal Service raises two statutory issues. The germane contract is filed as a functionally equivalent to the previous contract with the same GEPS reseller. As such, the proposed agreement must satisfy two statutory hurdles:

1. The proposed contract must be functionally equivalent to the previous contract from CP2010-36.
2. The contract must satisfy the requirements of §3633(a)(2), that each contract recover attributable costs.

III. Functional Equivalence

In agreements between postal users and the Postal Service, often defining functional equivalence is a difficult balancing act. In this instance, however, the

¹ Notice Of United States Postal Service Of Filing A Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement And Application For Non-Public Treatment Of Materials Filed Under Seal, (June 14, 2011) at 1. (Notice)

² Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Issued April 22, 2010.

³ Notice And Order Concerning An Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Issued June 16, 2011.

proposed contract is intended to be a renewal of a previous contract. Given that the current contract covers the same products as the previous contract, and is between the same parties, the often difficult test for functional equivalence is comparatively easy.

The Postal Service notice highlights the differences between the proposed contract and the previous contract. See Notice at 3-6. Of the differences, largely technical legalese, only one item would raise concerns about functional equivalence. The proposed contract modifies “Qualifying Mail” by removing two items from eligibility, EMI and PMI flat-rate boxes.

These items represent a small percentage of the rate options available to the reseller, and, on the balance, do not affect the functional equivalence of the proposed contract. After reviewing the proposed contract, the CP2010-36 contract, and Commissions guidance in Order No. 445 at 8, the proposed contract meets the test for functional equivalence.

IV. Cost Coverage – Compliance with §3633(a)(2)

The Postal Service workbook “WP2011.06.13.xls,” contains an analysis of the cost coverage for the projected volume distribution of the reseller. The financial estimates provided by the Postal Service show that the rates contained in the workbook comply with the requirements of §3633(a)(2).

The current contract has been proposed by the Postal Service pursuant to authority established by Decision No. 10-1 of the Postal Service Board of Governors.⁴ That Governor’s Decision states that “price floor formulas (redacted)... should cover attributable costs.”⁵ The file provided by the Postal Service under seal “WP2011.06.13.xls” contains tab “02_Narrative” which describes the pricing methodology for the current contract. Cell B67 of this tab contains a qualitative description of the methodology used by the Postal Service. However, there is no reference to the “price floor formulas” envisioned by the Governors Decision No. 10-1. Furthermore, the prices contained in tab “08_IP_Proposed_Rates” are hardcoded, highlighting that they do not appear to be the result of a pricing formula. While the contract as a whole is estimated to cover costs, there may be scenarios where the usage of

⁴ Notice at 1

⁵ Decision at 2

certain rate cells that do not cover costs can lead to lower contract cost coverage. Without specific reference to the pricing floor formulas, the Public Representative cannot evaluate whether discounts are provided for rates that, at the public tariff, do not cover costs.

Another concern is the cost coverage of all rates contained in the contract, but not contained in “_WP2011.06.13.xls.” The public version of the contract, attached to the Postal Service’s Notice, shows that there are two price annexes, one for entry within certain zip codes, another for entry outside of certain zip codes. The file “WP2011.06.13.xls” only contains revenue and cost information for one of the two pricing annexes. The file “WP2011.06.13.xls” contains an estimate of the reseller’s volume distribution given the rates available to it under the contract. Given the previous contract with this reseller, the Postal Service has superior information on this reseller as compared to a new, unknown customer. Furthermore, the previous contract has two pricing annexes. The volume history of the previous contract may mean that cost coverage information for all rate cells is not necessary, but this lack of information (even if the volume for those rate cells is zero), leads to a uncertainty that the prices in the proposed contract will cover attributable costs in all volume entry scenarios.

On the balance of the information provided in the Postal Service’s request, the contract appears to be in the financial interest of the Postal Service.

V. Conclusion

The proposed contract complies with the statutory requirements for competitive NSAs. As such, the Public Representative respectfully recommends that Commission approve the contract.

Respectfully submitted,

/s/ John P. Klingenberg

John P. Klingenberg
Public Representative

901 New York Avenue NW Suite 200
Washington DC 20268-0001
202-789-6863
klingejp@prc.gov